



General Assembly

**Substitute Bill No. 391**

February Session, 2004

\* SB00391GAE\_\_031604\_\_ \*

**AN ACT CONCERNING THE RETENTION OF SERVICE CONTRACT WORKERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (Effective July 1, 2004) (a) As used in this section:
- 2 (1) "Awarding authority" means any person, including a contractor  
3 or subcontractor, who awards or otherwise enters into a contract to  
4 perform any of the following services for the state: Security, janitorial,  
5 building maintenance, food and beverage, hotel, including hotel  
6 physical plant engineering, hotel electrician and hotel and convention  
7 center stagehand, hotel and convention center exhibition and  
8 convention setup and tear-down, carpentry, painting, audiovisual and  
9 lighting technician, healthcare and any service performed by  
10 nonelected and nonappointed state employees, but does not include  
11 services performed by any restaurant owned and operated by one or  
12 more individuals or an organization other than a publicly-traded  
13 corporation.
- 14 (2) "Contractor" means any person who enters into a service  
15 contract, valued at fifty thousand dollars or more, with the awarding  
16 authority and any subcontractors to such service contract at any tier.
- 17 (3) "Employee" means any person engaged to perform any of the  
18 following services: Security, janitorial, building maintenance, food and

19 beverage, hotel, including hotel physical plant engineering, hotel  
20 electrician and hotel and convention center stagehand, hotel and  
21 convention center exhibition and convention setup and tear-down,  
22 carpentry, painting, audiovisual and lighting technician, healthcare  
23 and any service performed by nonelected and nonappointed state  
24 employees, but does not include services performed by any restaurant  
25 owned and operated by one or more individuals or an organization  
26 other than a publicly-traded corporation, but does not include a person  
27 who is (A) a managerial, supervisory or confidential employee,  
28 including any person who would be so defined under the National  
29 Labor Relations Act, (B) employed for less than ten hours per week, or  
30 (C) employed by a terminated contractor for less than ninety days  
31 immediately preceding the termination date of the service contract.

32 (4) "Person" means any individual, proprietorship, partnership, joint  
33 venture, corporation, limited liability company, trust association, the  
34 state or other entity that may employ or enter into other contracts.

35 (5) "Service contract" means a contract let to a contractor by the  
36 awarding authority for the furnishing of any service listed in  
37 subdivision (3) of this subsection.

38 (6) "Successor service contract" means a service contract with the  
39 awarding authority under which substantially the same services to be  
40 performed have previously been rendered to the awarding authority  
41 as part of the same program or at the same facility under another  
42 service contract or have previously been rendered by the awarding  
43 authority's own employees.

44 (7) "Terminated contractor" means a contractor whose service  
45 contract expires without renewal or whose contract is terminated, and  
46 includes the awarding authority itself when work previously rendered  
47 by the awarding authority's own employees is the subject of a  
48 successor service contract.

49 (8) "Successor contractor" means a contractor awarded a service  
50 contract to provide substantially the same services previously

51 rendered to the awarding authority as part of the same program or at  
52 the same facility under another service contract.

53 (b) Each awarding authority that enters into a service contract to be  
54 performed within this state shall be subject to the following  
55 obligations:

56 (1) The awarding authority shall give advance notice to a contractor  
57 and the exclusive bargaining representative of any of the contractor's  
58 employees, of the termination of such service contract and shall  
59 provide the contractor and the exclusive bargaining representative  
60 with the name, telephone number and address of the successor  
61 contractor or contractors, if known. The terminated contractor shall,  
62 not later than three days after receipt of such notice, provide the  
63 successor contractor with the name, date of hire and employment  
64 occupation classification of each person employed by the terminated  
65 contractor at the site or sites covered by the service contract as of the  
66 date the terminated contractor receives the notice of termination.

67 (2) On the date the service contract terminates, the terminated  
68 contractor shall provide the successor contractor with updated  
69 information concerning the name, date of hire and employment  
70 occupation classification of each person employed by the terminated  
71 contractor at the site or sites covered by the service contract, to ensure  
72 that such information is current up to the actual date of service  
73 contract termination.

74 (3) If the awarding authority fails to notify the terminated contractor  
75 of the identity of the successor contractor, as required by subdivision  
76 (1) of this subsection, the terminated contractor shall provide the  
77 information described in subdivision (2) of this subsection to the  
78 awarding authority not later than three days after receiving notice that  
79 the service contract will be terminated. The awarding authority shall  
80 be responsible for providing such information to the successor  
81 contractor as soon as the successor contractor has been selected.

82 (4) (A) A successor contractor shall retain, for at least ninety days

83 from the date of first performance of services under the successor  
84 service contract, all of the employees who were employed by the  
85 terminated contractor at the site or sites covered by the service  
86 contract.

87 (B) In the event the successor service contract is terminated prior to  
88 the expiration of such ninety-day period, then any contractor awarded  
89 a subsequent successor service contract shall be bound by the  
90 requirements set forth in this subsection to retain, for a new ninety-day  
91 period commencing with the onset of the subsequent successor service  
92 contract, all of the employees who were previously employed by any  
93 one or more of the terminated contractors at the site or sites covered by  
94 the service contract.

95 (C) At least five days prior to the termination of a service contract,  
96 or at least fifteen days prior to the commencement of the first  
97 performance of service under a successor service contract, whichever is  
98 later, the successor contractor shall hand deliver a written offer of  
99 employment to each such employee in such employee's native  
100 language or any other language in which such employee is fluent and  
101 information concerning such employee's rights under the provisions of  
102 this section. Each offer of employment shall state the time within  
103 which such employee must accept such offer but in no case shall that  
104 time be less than ten days from the date of the offer of employment.

105 (5) If at any time a successor contractor determines that fewer  
106 employees are required to perform the successor service contract than  
107 were required by the terminated contractor, the successor contractor  
108 shall be required to retain such employees by seniority within each job  
109 classification, based upon the employees' total length of service at the  
110 affected site or sites.

111 (6) During such ninety-day period, the successor contractor shall  
112 maintain a preferential hiring list of employees eligible for retention  
113 pursuant to subdivision (4) of this subsection, who were not initially  
114 retained by the successor contractor, from which the successor

115 contractor shall hire additional employees, if necessary.

116 (7) Except as provided under subdivision (6) of this subsection,  
117 during such ninety-day period, the successor contractor shall not  
118 discharge without just cause an employee retained pursuant to this  
119 section. For purposes of this subdivision, "just cause" shall be  
120 determined solely by the performance or conduct of the particular  
121 employee. At the end of such ninety-day period, the successor  
122 contractor shall prepare a written performance evaluation for each  
123 employee retained pursuant to this section, and, if such employee's  
124 performance is satisfactory, offer such employee continued  
125 employment as may be consistent with the provisions of sections 4a-  
126 60g to 4a-60j, inclusive, of the general statutes.

127 (c) Any awarding authority or contractor who knowingly violates  
128 the provisions of this section shall pay a penalty not to exceed one  
129 hundred dollars per employee for each day the violation continues.

130 (d) The Labor Commissioner shall have the responsibility for the  
131 enforcement of the provisions of this section and in connection with  
132 such responsibility shall:

133 (1) Cause a notice containing the provisions of this section to be sent  
134 to all persons currently engaged in performing any of the following  
135 services within the state and to all persons who shall in the future  
136 indicate on such application an intention to engage in such businesses,  
137 including any subcontracts for such services: Security, janitorial,  
138 building maintenance, food and beverage, hotel, including hotel  
139 physical plant engineering, hotel electrician and hotel and convention  
140 center stagehand, hotel and convention center exhibition and  
141 convention setup and tear-down, carpentry, painting, audiovisual and  
142 lighting technician, health care and any service performed by  
143 nonelected and nonappointed state employees.

144 (2) Maintain a current list of all business privilege license holders for  
145 performing services listed in subdivision (1) of this subsection.

146       (3) Investigate all complaints against any contractor or awarding  
147 authority and in connection with such complaint or with respect to any  
148 investigation shall have full power and authority to subpoena any  
149 witness, books, records or other data of any person for the purposes of  
150 obtaining information pertinent to such investigation. The Labor  
151 Commissioner shall make a finding, in writing, with respect to each  
152 complaint filed, and shall send a copy of the complaint to the  
153 complainant and the contractor and shall maintain the original on file.

154       (4) Refer all complaints determined to have merit to the appropriate  
155 state department for revocation of the offending contractor's business  
156 privilege license.

157       (5) Monitor the operations of contractors and awarding authorities  
158 to ensure compliance with the provisions of this section.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>

**GAE**       *Joint Favorable Subst.*